

# **ATTACHMENT 27**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CISCO SYSTEMS, INC., )

)

Plaintiff, )

)

vs. )

Case No. 5:14-cv-05344-BLF (PSG)

)

ARISTA NETWORKS, INC., )

)

Defendant. )

)

)

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VIDEOTAPED DEPOSITION OF DAN LANG

Date and Time: Friday, May 20, 2016

9:35 a.m.

Location: 601 California Avenue, Palo Alto,  
California 94304

Reported by: Cammi R. Bowen, CSR-13492

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1	A P P E A R A N C E S:	1	EXHIBITS - CONTINUED
2	For the Plaintiff: QUINN EMANUEL URQUHART & SULLIVAN, LLP	2	Exhibit 1010 Exhibit 8A to the Second Amended Complaint 82
3	50 California Street	3	
4	22nd Floor	4	Exhibit 1011 Exhibit 9A to the Second Amended Complaint 83
5	San Francisco, CA 94111	5	Exhibit 1012 Mark Chandler's Cisco Blog 119
6	Tel: (415) 875-6341	6	
7	E-mail: Johnneukom@quinnemanuel.com	7	Exhibit 1013 Presentation entitled "Arista Competitive Overview" 154
8	BY: JOHN (JAY) NEUKOM, ESQ	8	Exhibit 1014 Cisco Web page entitled "Open Standards Customer-Centric Open Standards" 200
9	ELIZABETH MCCLOSKEY, ESQ	9	
10		10	Exhibit 1015 Document entitled "Industry Standards," Bates-stamped CSI-CLI-01327019 through CSI-CLI-01327066 207
11	For the Defendants: KEKER & VAN NEST LLP	11	
12	633 Battery Street	12	Exhibit 1016 Document entitled "Huawei Enterprise Briefing for Cisco Partners," Bates-stamped CSI-ANI-00639731 through CSI-ANI-00639782 218
13	San Francisco, CA 94111	13	
14	Tel: (415) 391-5400	14	
15	E-mail: Djs@kvn.com	15	Exhibit 1017 Agreement between Huawei Technologies Co., Ltd, FutureWei Technologies, Inc And Huawei America, Inc., Cisco Systems, Inc And Cisco Technology, Inc And 3Com Corporation, Dated as of September 30, 2003 222
16	BY: DAVID SILBERT, ESQ	16	
17		17	Exhibit 1018 Document Bates-stamped CSI-CLI-02555741 through CSI-CLI-02555787 222
18	Also Present: Keith Stevens, Videographer	18	
19		19	Exhibit 1019 Document Bates-stamped CSI-CLI-02555798 through CSI-CLI-02555813 223
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<p>1 THE VIDEOGRAPHER: Good morning. We are on</p> <p>2 the record now. The time is 9:35 a.m. on today's</p> <p>3 date, May 20, 2016.</p> <p>4 This is the video-recorded deposition of</p> <p>5 Dan Lang. My name is Keith Stevens, here with our</p> <p>6 court reporter, Cammi Bowen. We are here from</p> <p>7 Veritext Legal Solutions at request of counsel for</p> <p>8 the defendant.</p> <p>9 This deposition is being held at Wilson</p> <p>10 Sonsini in Palo Alto, California, and the caption of</p> <p>11 the case is Cisco Systems, Inc. Versus Arista</p> <p>12 Networks, Inc., and the case number is</p> <p>13 5:14-cv-05344-BLF.</p> <p>14 At this time, will counsel please identify</p> <p>15 yourselves and state whom you represent.</p> <p>16 MR. SILBERT: David Silbert, Kecker &amp; Van</p> <p>17 Nest on behalf of the defendant Arista.</p> <p>18 MR. NEUKOM: John Neukom for the plaintiff</p> <p>19 and also for the witness.</p> <p>20 THE VIDEOGRAPHER: Thank you.</p> <p>21 And the witness may now be sworn in.</p> <p>22 THE COURT REPORTER: Raise your right hand,</p> <p>23 please.</p> <p>24 Do you swear to tell the truth, the whole</p> <p>25 truth, and nothing but the truth?</p> <p style="text-align: right;">Page 6</p>	<p>1 MR. NEUKOM: That's it.</p> <p>2 MR. SILBERT: Thanks.</p> <p>3 DAN LANG,</p> <p>4 being first duly affirmed by the Certified Shorthand</p> <p>5 Reporter to tell the truth, the whole truth, and</p> <p>6 nothing but the truth, testified as follows:</p> <p>7 EXAMINATION</p> <p>8 BY MR. SILBERT:</p> <p>9 Q. Good morning, Mr. Lang.</p> <p>10 A. Good morning.</p> <p>11 Q. Have you ever been deposed before?</p> <p>12 A. Yes, I have.</p> <p>13 Q. How many times?</p> <p>14 A. I -- I'm not sure exactly how many.</p> <p>15 Probably about a dozen.</p> <p>16 Q. And on each of those occasions, were you</p> <p>17 deposed in your capacity as an employee of Cisco?</p> <p>18 A. On one occasion, I was deposed about a</p> <p>19 patent I had drafted as a -- as a patent prosecutor.</p> <p>20 Not for Cisco.</p> <p>21 Q. Okay. And that deposition that you just</p> <p>22 referred to, did that occur before you were working</p> <p>23 at Cisco or during the time that you were working at</p> <p>24 Cisco?</p> <p>25 A. It was fairly early on, as I recall, during</p> <p style="text-align: right;">Page 8</p>
<p>1 THE WITNESS: I do.</p> <p>2 MR. NEUKOM: David, before you begin your</p> <p>3 questioning, would you like me to -- shall I make my</p> <p>4 note for the record about the topics?</p> <p>5 MR. SILBERT: Sure. Please go ahead.</p> <p>6 MR. NEUKOM: Okay. So leading up to</p> <p>7 today's deposition, Cisco counsel announced that</p> <p>8 Mr. Lang would be a 30(b)(6) witness today on the</p> <p>9 following topics:</p> <p>10 13, 19 through 33, 35 through 40, 49, 50,</p> <p>11 51, 59, 63 through 66, 74, 75, 84, 85, 86, and 88.</p> <p>12 That said, it has become clear to me in</p> <p>13 recent days that Cisco's production of intellectual</p> <p>14 property licenses is ongoing, and we are working on</p> <p>15 getting, I believe, some confidentiality clearances</p> <p>16 from counterparties to some of those licenses.</p> <p>17 Given that not-yet-complete state of</p> <p>18 document production for those licenses, we are not</p> <p>19 putting Mr. Lang up today on the following topics:</p> <p>20 59, 64, 65, 66, 74, and 75.</p> <p>21 On those six topics, we will shortly offer</p> <p>22 to counsel for Arista an additional date for a -- a</p> <p>23 deposition of Mr. Lang as a 30(b)(6) on those</p> <p>24 topics.</p> <p>25 MR. SILBERT: Is that it?</p> <p style="text-align: right;">Page 7</p>	<p>1 my employment at Cisco, but it had to do with things</p> <p>2 that happened before I was employed at Cisco.</p> <p>3 Q. What was the general nature of the</p> <p>4 testimony that you gave in the other depositions</p> <p>5 you've given as a Cisco employee?</p> <p>6 A. Generally speaking, I've been testifying</p> <p>7 about licensing history, willfulness, issues</p> <p>8 connected with Cisco's participation of standards</p> <p>9 bodies in the ITC investigations that the -- Cisco</p> <p>10 filed against Arista. I also spoke about our</p> <p>11 historical competitive analysis practices, including</p> <p>12 those of Arista.</p> <p>13 And -- and let -- let me just supplement</p> <p>14 that.</p> <p>15 Also, in -- you know, sometimes it's --</p> <p>16 it's the precise negotiating history with the -- you</p> <p>17 know, the company that -- that we're litigating</p> <p>18 with.</p> <p>19 Q. With the exception of the ITC cases against</p> <p>20 Arista that you referred to --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- were the other cases where you'd given</p> <p>23 depositions, cases where Cisco was a defendant in a</p> <p>24 patent infringement lawsuit?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 9</p>

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<p>1 BY MR. SILBERT:</p> <p>2 Q. Is it fair to say that whatever the overlap</p> <p>3 is between HP, Brocade, Alcatel-Lucent, Juniper</p> <p>4 Networks, and Extreme's CLIs, and Cisco's CLI,</p> <p>5 Mr. Chandler considers that amount of overlap to be</p> <p>6 not very significant?</p> <p>7 MR. NEUKOM: Objection. Beyond the scope</p> <p>8 of any topic for which this witness has been</p> <p>9 designated today. Also, calls for speculation, lack</p> <p>10 of foundation.</p> <p>11 THE WITNESS: I -- I can go by what's on</p> <p>12 the page here. I mean, he said that it's a small</p> <p>13 fraction of overlap. You know, we can go to the</p> <p>14 next sentence. He says -- he uses it as evidence to</p> <p>15 support his conclusion that these formidable</p> <p>16 competitors innovated on their own rather than copy.</p> <p>17 That's how -- that's how he views that -- that</p> <p>18 percentage of overlap.</p> <p>19 BY MR. SILBERT:</p> <p>20 Q. Right.</p> <p>21 So do you agree that the conclusion -- the</p> <p>22 fair conclusion to be drawn from this blog post is</p> <p>23 that whatever overlap exists between HP, Brocade,</p> <p>24 Alcatel-Lucent, Juniper Networks, and Extreme CLIs,</p> <p>25 and Cisco's CLI, that amount of overlap equates with</p> <p style="text-align: right;">Page 126</p>	<p>1 A. I -- I -- I don't know --</p> <p>2 MR. NEUKOM: Same objections.</p> <p>3 THE WITNESS: Yeah. I mean, I don't really</p> <p>4 have a detailed view of that. I mean, I -- I can</p> <p>5 say here that HP's CLI overlap is small. It's a --</p> <p>6 a -- much smaller than Arista's. And there's a</p> <p>7 notion that they've innovated on their own. They</p> <p>8 are formidable competitors.</p> <p>9 BY MR. SILBERT:</p> <p>10 Q. Certainly Mr. Boulton had no problem with</p> <p>11 the amount of overlap between HP's CLI and Cisco's</p> <p>12 CLI; right?</p> <p>13 MR. NEUKOM: Objection. Lack of</p> <p>14 foundation. Beyond the scope of any topic for which</p> <p>15 this witness has been designated. Calls for</p> <p>16 speculation.</p> <p>17 THE WITNESS: Yeah. My conversation with</p> <p>18 Mr. Boulton, I mean, to be precise, wasn't about how</p> <p>19 much he liked or disliked or what problem he had</p> <p>20 with -- with HP's CLI, but it was by way of</p> <p>21 comparison and how Arista's and 2002 circa -- circa</p> <p>22 2002 Huawei's CLIs were in a category by themselves.</p> <p>23 I -- I did not ask him and did not discuss</p> <p>24 with him exactly how much he either liked or</p> <p>25 disliked HP's CLI.</p> <p style="text-align: right;">Page 128</p>
<p>1 innovating on those companies' own rather than</p> <p>2 copying?</p> <p>3 MR. NEUKOM: Objection. Beyond the scope</p> <p>4 of any topic that this witness has been put up for</p> <p>5 today. Also, calls for opinion testimony regarding</p> <p>6 what would or would not be a fair conclusion to be</p> <p>7 drawn from a document. Also, objection, document</p> <p>8 speaks for itself.</p> <p>9 THE WITNESS: Yeah. I -- the document does</p> <p>10 speak for itself.</p> <p>11 You know, he said it's a small fraction of</p> <p>12 overlapping CLI commands, and then that supports</p> <p>13 their having innovated on their own.</p> <p>14 BY MR. SILBERT:</p> <p>15 Q. Did Cisco believe that HP competes fairly</p> <p>16 with respect to its use of CLI commands?</p> <p>17 MR. NEUKOM: Objection. Vague. Also,</p> <p>18 beyond the scope of any topic for which this witness</p> <p>19 has been designated today. Also, calls for opinion</p> <p>20 testimony.</p> <p>21 THE WITNESS: Could you repeat that,</p> <p>22 please?</p> <p>23 BY MR. SILBERT:</p> <p>24 Q. Does Cisco believe that HP competes fairly</p> <p>25 with respect to its use of CLI commands?</p> <p style="text-align: right;">Page 127</p>	<p>1 BY MR. SILBERT:</p> <p>2 Q. Has Cisco ever, in any context, registered</p> <p>3 any disagreement with CLI commands used by HP on the</p> <p>4 ground that they overlap with CLI commands used by</p> <p>5 Cisco?</p> <p>6 MR. NEUKOM: Objection. Beyond the scope.</p> <p>7 Vague and compound.</p> <p>8 THE WITNESS: I don't know of any -- any</p> <p>9 such instances and I -- I don't know if that --</p> <p>10 well, I don't -- I don't see that it as necessarily</p> <p>11 being, you know, comparable to this situation here.</p> <p>12 I mean, we've identified two companies that</p> <p>13 we feel are CLIs that are, one could say, entirely</p> <p>14 ripped off of Cisco's and we -- we sued them. And</p> <p>15 we -- I think we can -- we can establish pretty</p> <p>16 clearly that we did not do that to HP.</p> <p>17 BY MR. SILBERT:</p> <p>18 Q. Right.</p> <p>19 You -- you never sued HP and -- about its</p> <p>20 CLI, and even more than that, Cisco has never raised</p> <p>21 a finger to complain about anything HP does with</p> <p>22 respect to its CLI, has it?</p> <p>23 MR. NEUKOM: Objection. Compound, off</p> <p>24 topic. And vague.</p> <p>25 THE WITNESS: Yeah, I -- I don't know what</p> <p style="text-align: right;">Page 129</p>

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<p>1 we -- we might have done with that res- -- in that  2 respect to HP, but I -- I do know that the degree of  3 overlap is a small fraction of the CLI commands.  4 BY MR. SILBERT:  5 Q. How do you know that?  6 A. It's -- it states it in Mr. Chandler's blog  7 post.  8 Q. Okay. Whatever -- is it fair to say that  9 whatever that degree of overlap is between HP's CLI  10 and Cisco's CLI, it does not rise to the level of  11 being a significant concern for -- to Cisco?  12 MR. NEUKOM: Objection. Vague and  13 compound. Beyond the scope of any topic for which  14 this witness has been designated today.  15 THE WITNESS: The -- the level of overlap,  16 again, is a -- a small fraction. You know, it helps  17 support a statement that they innovated on their  18 own.  19 For Mr. Boulton and from his perspective,  20 it certainly did not rise to the level of a -- of a  21 ripping off of the CLI that Arista and Huawei, circa  22 2002, did. I -- forgetting the exact phrasing you  23 used in your question now, but a significant  24 concern.  25 You know, I -- I don't know what that means</p> <p style="text-align: right;">Page 130</p>	<p>1 A. Well, I -- I can only quote the words on  2 the page which say, well, networking products from  3 HP -- then listing a number of other vendors -- each  4 have only a small fraction of overlapping CLI  5 commands.  6 Q. Yeah. Isn't that what he's saying?  7 That whatever the overlap is between HP and  8 Cisco, that amounts to only a small fraction of  9 overlapping commands?  10 MR. NEUKOM: Objection. Document speaks  11 for itself. And beyond the scope.  12 THE WITNESS: Yeah. The document speaks  13 for itself.  14 I mean, it, you know, could be that he was  15 referring only to multiword commands, for example.  16 But, in his view, the -- the overlap was a small  17 fraction.  18 BY MR. SILBERT:  19 Q. So I just want to understand your prior  20 testimony. Let me ask the question again.  21 Isn't it true that Cisco believes that  22 whatever the amount of overlap is between HP's CLI  23 and Cisco's CLI, that amount of overlap is not worth  24 Cisco doing anything about?  25 MR. NEUKOM: Objection. Vague, well off</p> <p style="text-align: right;">Page 132</p>
<p>1 for a company like ours, but I spoke to the guy who  2 does competitive analysis and he -- he focused on  3 the uniqueness of Arista and Huawei, even though HP  4 is also a -- a Tier 1 competitor that his -- his  5 group works on.  6 BY MR. SILBERT:  7 Q. So isn't it true that Cisco believes that  8 whatever the degree of overlap is between the HP CLI  9 and Cisco CLI, it's not worth Cisco doing anything  10 about?  11 MR. NEUKOM: Objection. Mischaracterizes  12 prior testimony. Off topic. Hypothetical.  13 THE WITNESS: Yeah, I -- I didn't say that.  14 What I said was that it wasn't in the unique  15 category that Arista and Huawei are.  16 It didn't rise to the level where somebody  17 could, you know, sit down with the HP box, having  18 been trained on Cisco and used the HP box without  19 consulting a user's manual. And we have not sued  20 HP.  21 BY MR. SILBERT:  22 Q. It's true that -- isn't it, that whatever  23 the degree of overlap is between the HP CLI and  24 Cisco's CLI, Mr. Chandler considers that degree of  25 overlap to be a small fraction of overlap?</p> <p style="text-align: right;">Page 131</p>	<p>1 topic, calls for speculation.  2 This witness is not here to talk about the  3 belief of a legal entity.  4 THE WITNESS: Okay. So again, you know,  5 Cisco's belief as a, you know, 70,000 person, \$50  6 billion company is a little hard to pin down as a  7 concept.  8 We've told you about what the -- the degree  9 of -- of overlap is. You know, I've -- I've told  10 you that there are two companies that we've -- that  11 we've sued. And I've told you how those companies  12 are viewed as unique by our competitive analysis  13 group, you know, compared to other Tier 1  14 competitors.  15 Beyond that, I'm not sure that I really  16 have anything to -- to say about HP and, you know --  17 you know, particularly. I think I've said those  18 things a number of times. And, you know, those are  19 the things that -- that the -- that I can say based  20 on my -- my preparation on this topic.  21 BY MR. SILBERT:  22 Q. Okay. But here's my -- Cisco has not done  23 anything about the overlap between HP's CLI and  24 Cisco's CLI, whatever that degree of overlap may be;  25 right?</p> <p style="text-align: right;">Page 133</p>

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<p>1 [REDACTED]  2 [REDACTED]  3 [REDACTED]  4 [REDACTED]  5 [REDACTED]  6 [REDACTED]  7 [REDACTED]  8 [REDACTED]  9 [REDACTED]  10 [REDACTED]  11 [REDACTED]  12 [REDACTED]  13 [REDACTED]  14 [REDACTED]  15 [REDACTED]  16 [REDACTED]  17 [REDACTED]  18 [REDACTED]  19 [REDACTED]  20 [REDACTED]  21 [REDACTED]  22 [REDACTED]  23 [REDACTED]  24 [REDACTED]  25 [REDACTED]</p> <p>Page 254</p>	<p>1 (Whereupon, the deposition of Dan Lang  2 was concluded at 5:30 p.m.)  3 --oOo--  4  5  6  7 DECLARATION UNDER PENALTY OF PERJURY  8  9 I, Dan Lang, do hereby declare under penalty of  10 perjury that I have read the foregoing transcript of my  11 deposition taken on May 20, 2016; that I have made such  12 corrections as appear noted on the Deposition Errata  13 Page, attached hereto, signed by me; that my testimony  14 as contained herein, as corrected, is true and correct.  15  16 Dated this _____ day of _____,  17 2016, at _____,  18 California.  19  20  21  22 _____  23 Dan Lang  24  25</p> <p>Page 256</p>
<p>1 [REDACTED]  2 [REDACTED]  3 [REDACTED]  4 [REDACTED]  5 [REDACTED]  6 [REDACTED]  7 [REDACTED]  8 [REDACTED]  9 [REDACTED]  10 [REDACTED]  11 [REDACTED]  12 [REDACTED]  13 [REDACTED]  14 [REDACTED]  15 [REDACTED]  16 [REDACTED]  17 [REDACTED]  18 [REDACTED]  19 [REDACTED]  20 [REDACTED]  21 [REDACTED]  22 [REDACTED]  23 [REDACTED]  24 [REDACTED]  25 [REDACTED]</p>	<p>1 CERTIFICATE OF REPORTER  2  3 I, CAMMI R. BOWEN, a Certified Shorthand  4 Reporter, hereby certify that the witness in the  5 foregoing deposition was by me duly sworn to tell the  6 truth, the whole truth, and nothing but the truth in the  7 within-entitled cause;  8 That said deposition was taken down in  9 shorthand by me, a disinterested person, at the time and  10 place therein stated, and that the testimony of the said  11 witness was thereafter reduced to typewriting, by  12 computer, under my direction and supervision;  13 Further, that if the foregoing pertains to the  14 original transcript of a deposition in a Federal Case,  15 before completion of the proceedings, review of the  16 transcript [ ] was [ ] was not requested.  17 I further certify that I am not of counsel or  18 attorney for either or any of the parties to the said  19 deposition, nor in any way interested in the events of  20 this cause, and that I am not related to any of the  21 parties hereto.  22 DATED: 6/2/2016  23  24 &lt;%signature%&gt;  25 CAMMI R. BOWEN  CSR #13492</p> <p>Page 257</p>